

REMARKS

Claims 1-42, 44-71, and 73-79 are pending. Claims 43 and 72 are canceled. Claims 73-79 are new. The Examiner is thanked for indicating that claim 72 was directed to allowable subject matter.

The Examiner rejected claims 26 and 57 under 35 U.S.C. § 112, second paragraph, as indefinite because of the use of the term “ring-like.” Applicant has removed “ring-like” from claims 26 and 57. Applicant submits that this amendment has both removed any ambiguity and broadened the scope of claims 26 and 57.

The Examiner rejected claims 1-3, 5-7, 12, 15-18, 33-37, 39-46, 51, 59, 61-71 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,607,386 issued to Flam. Applicant respectfully traverses the Examiner’s rejection.

Independent claims 1, 33, and 61, as amended, recite “an anti-perforation device ... having an exploratory portion shaped to prevent the anti-perforation device from perforating an internal body structure during insertion.” The Examiner points to fiberoptic bronchoscope 22 and fiberoptic bundle 21 of Flam as the anti-perforation device. There is no teaching or suggestion in Flam that fiberoptic bronchoscope 22 and fiberoptic bundle 21 have “an exploratory portion shaped to prevent the anti-perforation device from perforating an internal body structure during insertion,” as recited. Claims 2-3, 5-7, 12, and 15-18 depend from claim 1, claims 34-37, 39-42, 44-46, 51 and 59 depend from claim 33, and claims 62-65 depend from claim 61. Claim 43 has been canceled. Accordingly, Applicant submits that claims 1-3, 5-7, 12, 15-18, 33-37, 39-42, 44-46, 51, 59, and 61-65 are not anticipated by Flam.

Independent claim 66, as amended, recites “detecting the cartilaginous rings of the trachea via at least one tactile-accentuator device coupled to the intubation-tube placement device.” The Examiner indicated claim 72 was allowable. Independent claim 66 has been amended to include this limitation from claim 72. Flam does not teach or suggest “detecting the cartilaginous rings of the trachea via at least one tactile-accentuator device coupled to the intubation-tube placement device,” as recited. Claims 67-71 depend from claim 66. Accordingly, Applicant submits that claims 66-71 are not anticipated by Flam.

The Examiner rejected claims 4, 8-11, 13, 38, 47-50 and 52 under 35 U.S.C. § 103(a) as obvious over Flam in view of U.S. Patent No. 6,814,698 issued to Barthel, et al. Applicant respectfully traverses the Examiner' rejection. As an initial matter, Flam is not an appropriate primary reference for the reasons set forth above. Barthel does not provide the teachings missing from Flam and discussed above with respect to independent claims 1 and 33. Claims 4, 8-11 and 13 depend from claim 1 and claims 38, 47-50 and 52 depend from claim 33. To the extent the Examiner relies on the tip 32 of Barthel, which is described as ball-shaped, the tip 32 of Barthel is flat on the end (see Figures 2, 3 and 4 of Barthel), and thus is not "shaped to prevent the anti-perforation device from perforating an internal body structure during insertion." Accordingly, Applicant submits that claims 4, 8-11, 13, 38, 47-50 and 52 are not rendered obvious by Flam in view of Barthel.

The Examiner rejected claims 14, 19-21, 23, 27-32, 53 and 54 under 35 U.S.C. § 103(a) as obvious over Flam in view of U.S. Patent No. 4,469,091 issued to Slanetz, Jr. As an initial matter, Flam is not an appropriate primary reference for the reasons set forth above. Slanetz, Jr., does not provide the teachings missing from Flam and discussed above with respect to independent claims 1 and 33. Independent claim 19 as amended also recites "an anti-perforation device ... having an exploratory portion shaped to prevent the anti-perforation device from perforating an internal body structure during insertion." Claim 14 depends from claim 1, claims 20-21, 23, and 27-32 depend from claim 19, and claims 53 and 54 and 52 depend from claim 33. Accordingly, Applicant submits that claims 14, 20-21, 23, 27-32, 53 and 54 are not rendered obvious by Flam in view of Slanetz, Jr.

The Examiner rejected claims 22, 24-26, and 55-57 under 35 U.S.C. § 103(a) as obvious over Flam in view of Barthel and Slanetz, Jr. As an initial matter, Flam is not an appropriate primary reference for the reasons set forth above. Neither Barthel nor Slanetz, Jr., provide the teachings missing from Flam and discussed above with respect to independent claims 19 and 33. Claims 22 and 24-26 depend from claim 19, and claims 55-57 depend from claim 33. Accordingly, Applicant submits that claims 22, 24-26 and 55-57 are not rendered obvious by Flam in view of Barthel and Slanetz, Jr.

The Examiner rejected claim 58 under 35 U.S.C. § 103(a) as obvious over Flam in view of U.S. Patent No. 5,263,478 issued to Davis. As an initial matter, Flam is not an appropriate primary reference for the reasons set forth above. Davis does not provide the teachings missing from Flam and discussed above with respect to independent claim 33, from which claim 58 depends. Accordingly, Applicant submits that claim 58 is not rendered obvious by Flam in view Davis.

The Examiner rejected claim 60 under 35 U.S.C. § 103(a) as obvious over Flam in view of U.S. Patent No. 5,329,940 issued to Adair. As an initial matter, Flam is not an appropriate primary reference for the reasons set forth above. Adair does not provide the teachings missing from Flam and discussed above with respect to independent claim 33, from which claim 60 depends. Accordingly, Applicant submits that claim 60 is not rendered obvious by Flam in view Adair.

New independent claim 73 recites “inserting an intubation-tube placement device having an exploratory portion shaped to prevent the intubation-tube placement device from perforating an internal body structure during insertion.” Applicant submits that the cited references, alone or in combination, do not teach or suggest “inserting an intubation-tube placement device having an exploratory portion shaped to prevent the intubation-tube placement device from perforating an internal body structure during insertion,” as recited. New claims 74-79 depend from claim 73. Accordingly, Applicant submits that claims 73-79 are allowable.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Application No. 10/086,940
Reply to Office Action dated April 7, 2005

All of the claims remaining in the application are now clearly allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
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